EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY MANOR CARE, INC PROPOSING TO ADD 27 SKILLED NURSING CENTER TO MANOR CARE OF LYNNWOOD WITHIN SNOHOMISH COUNTY

PROJECT DESCRIPTION

Manor Care, Inc. is a Delaware Corporation with a principle place of business at 333 North Summit Street, in the city of Toledo, within the state of Ohio. It is not registered in Washington State; rather it is the parent company of four subsidiaries, one of which is registered in Washington.[1] [source: Business Risk Assessment Analysis, p2]

Heartland Employment Services

An Ohio corporation registered in the state of Washington. Heartland Employment Services is a direct employer of all corporate and support employees. The corporation does not own or operate any health care facilities; however, a branch of this entity owns and operates home care agencies throughout the United States.

HCRC, Inc.

A Delaware corporation that is not registered in Washington State. HCRC, Inc. is a subsidiary of Heartland Employment Services and the parent company of Health Care and Retirement Corporation of America, which is the direct owner and operator of a number skilled nursing facilities and the parent of subsidiaries that own and operate nursing home facilities.

MNR Finance Corporation

Another Delaware corporation that is that is not registered in Washington State and does not own or operate any skilled nursing facilities.

Manor Care of America, Inc

Also a Delaware corporation not registered in Washington State and the parent corporation of Manor Care Health Services, Inc., another Delaware corporation. Manor Care Health Services, Inc. is the direct owner and operator of several skilled nursing facilities and the parent corporation of subsidiaries that own and operate nursing home facilities. Manor Care Health Services, Inc. is also not registered in Washington State; however, it is the parent corporation of Manor Care of Meadow Park, Inc, which is registered in Washington.

As of the writing of this evaluation, Manor Care, Inc. is the second largest provider of long term services in the nation, owning/operating over 300 nursing homes and assisted living facilities in 32 states through its subsidiaries. For Washington State, Manor Care, Inc. owns and operates four skilled nursing facilities through its Manor Care of Meadow Park subsidiary; and the Heartland subsidiary owns and operates a home care agency and a Medicare certified home health agency in the state. The Washington State facilities and city of location are shown in the chart below. [source: December 1, 2004, supplemental information, pp1-2; Manor Care Website at www.hcr-manorcare.com]

Skilled Nursing Facilities	Home Care and Home Health Agencies
Manor Care of Gig Harbor, Gig Harbor	Heartland Home Care, Seattle
Manor Care Health Services, Lynnwood	Heartland Home Health Care Services, Seattle
Manor Care Health Services, Spokane	
Manor Care Health Services, Tacoma	

Manor Care of Meadow Park, Inc

As stated above, through its subsidiaries, Manor Care, Inc. owns, operates, or manages over 500 healthcare facilities, which includes skilled nursing centers, assisted living facilities, outpatient rehabilitation clinics, and hospice and home health offices across the nation. For management

[1] HCR ManorCare is the trade name used by the parent company, but it is not a legal entity.

purposes, the healthcare facilities are grouped geographically, rather than corporately, into seven operating divisions:

Mid-Atlantic Midwest Mid-States East **West** South Central

Washington State is located in the West division [in bold above], and includes facilities owned and operated by Manor Care Health Services, Inc. or its subsidiary, Manor Care of Meadow Park, Inc. This application was submitted by Manor Care of Meadow Park, Inc. [source: December 1, 2004, supplemental information, pp1-2] For Certificate of Need purposes, Manor Care of Meadow Park, Inc. is considered the applicant, and will be referenced in this document as "MCMP."

Manor Care of Lynnwood is a 113-bed skilled nursing facility (SNF) currently located at 3701 – 188th Street SW in the city of Lynnwood, within Snohomish County. This project proposes to add 27 skilled nursing beds to the existing 113-beds, for a facility total of 140. [source: Application, p3] The addition of the 27 beds would be accomplished by constructing a 12,081 square foot one story addition that would be attached to the existing structure at two places.—at the main dining room and at the end of an existing resident wing. The additional space would include 3 private rooms, 12 semi private rooms, an additional nurses station, physical therapy, occupational therapy, speech therapy, recreational therapy space, resident lounges, dining room/resident day room, administrative offices, and support areas. [source: Application, pp4-5] For this evaluation, Manor Care of Lynnwood will be referenced as "MC-Lynnwood."

The anticipated date of commencement of construction of the facility is December 2005, with an estimated date of completion of December 2006. The facility is expected to begin serving patients within the new space in January 2007. Therefore, the first full year of operation as a 140 bed facility is calendar year 2007. [source: Application, pp7-9]

The estimated capital expenditure for this project is $3,165,455, of which 68% is related to constructions costs; 11% is related to equipment costs; 7% is related to corporate overhead; 6% is related to state sales tax; and the remaining 6% is related to fees. [source: March 16, 2005, supplemental information, Attachment 16]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the increase in the number of skilled nursing beds at an existing skilled nursing facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(c).

APPLICATION CHRONOLOGY

August 23, 2004	Letter of Intent Submitted
September 29, 2004	Application Submitted
October 1, 2004 through March 24, 2005	Department's Pre-Review Activities • 1st screening activities and responses • 2nd screening activities and responses
March 25, 2005	Department Begins Review of the Application • public comments accepted throughout review
May 26, 2005	Public Hearing Conducted/End of Public Comment
June 13, 2005	Rebuttal Documents Received at Department
July 28, 2005	Department's Anticipated Decision Date
December 9, 2005	Department's Actual Decision Date

CONCURRENT REVIEW AND AFFECTED PARTIES

As directed under WAC 246-310-130(5)(c), the department accepted this project under the nursing home current review cycle for Snohomish County. In accordance with CN Program policy, when applications initially submitted under a concurrent review cycle are deemed not to be competing, the department has converted the review to the regular review process. Given that this application was the only application received under the concurrent review cycle for Snohomish County, the application was converted to a regular review.

Throughout the review of this project, five entities sought and received affected person status under WAC 246-310-010. All of the entities are community based skilled nursing centers located in Snohomish County.

- Edmonds Rehabilitation and Health Center, Edmonds;
- Kindred Healthcare, Edmonds;
- Life Care Center of Bothell, Bothell;
- Marysville Care Center, Marysville; and
- Sunrise View Convalescent Center, Everett.

SOURCE INFORMATION REVIEWED

- Manor Care of Meadow Park, Inc.'s Certificate of Need Application received September 29, 2004
- Manor Care of Meadow Park, Inc.'s supplemental information dated December 10, 2004, and March 16, 2005
- Public comment received during the course of the review
- Comments received at the public hearing on May 26, 2005
- Rebuttal comments received from Manor Care of Meadow Park, Inc. dated June 10, 2005
- Rebuttal comments received from Sunrise View Convalescent Center dated June 10, 2005
- Population data obtained from the Office Financial Management based on year 2000 census published January 2002
- Data obtained from the US Census Bureau website http://quickfacts.census.gov
- Years 2002 and 2003 Medicaid cost report data provided by the Department of Social and Health Services
- Licensing and/or survey data provided by the Department of Social and Health Services
- Data obtained for nursing homes, adult family homes, and boarding homes from Department of Social and Health Services website www.aasa.dshs.wa.gov
- Business Risk Assessment review received June 22, 2005, from the Department of Social and Health Services' Office of Financial Recovery
- Information obtained from the applicant's website at www.hcr-manorcare.com]
- Certificate of Need Historical files
- Adult Family Home and Boarding Home Data obtained by The Gilmore Research Group received October 2005
- Revised Code of Washington 70.127 governing in-home service agencies

CRITERIA EVALUATION

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment) and WAC 246-310-360 (nursing home bed need method).[2]

CONCLUSION

For the reasons stated in this evaluation, the application submitted by on behalf of Manor Care of Meadow Park proposing to add 27 beds to the existing 113-bed nursing home known as Manor Care--Lynnwood is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

[2] Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6) and WAC 246-310-240.

A. Nursing Home Bed Need Method (WAC 246-310-360)

For all applications where the need for nursing home beds is not deemed met as identified in RCW 70.38.115(13), the [following] mathematical calculation will be used as a guideline and represent only one component of evaluating need.

As stated in the project description portion of this evaluation, this project proposes to add 27 beds to an existing SNF in Snohomish County, and the 27 beds would be added to the planning area's total bed count. As such, the need for an additional 27 beds must be demonstrated by the applicant. One component of evaluating need for additional SNF beds within a county is applying the nursing home bed need numeric methodology. The ratio of 40 beds per 1,000 population over 65 years of age (40/1,000) is used for projecting total bed need for SNFs in the state and within a planning area.

The methodology, outlined in WAC 246-310-360, is a four-step process. The first step requires a computation of the statewide and planning area specific estimated bed need for the projection year.[3] The second step requires a computation of the projected current supply ratio statewide and for each planning area. The third step requires a determination of the planning areas that will be under the established ratio, or over the established ratio in the projection year. The fourth, and final step, requires a comparison of the most recent statewide bed supply with the statewide estimated bed need.

Application of the first four steps of the methodology outlined above indicates that Washington State is projected to be under the 40/1,000 target ratio by 4,338 beds in year 2007—the projection year.

Step four provides further guidance if the current statewide bed supply is greater than or equal to the statewide estimated bed need, or if the current statewide bed supply is less than the statewide estimated bed need. Given that the current statewide bed supply is less than the statewide estimated bed need, the department must then determine the difference between the statewide estimated bed need and the statewide current bed supply, which is referenced as "statewide available beds." The methodology then requires a comparison of whether the "statewide available beds" is sufficient to allocate to each planning area under the establish 40/1,000 ratio enough beds to bring that planning area up to the established ratio. If there are not enough beds, the methodology directs the department to assign to each planning area under the established ratio a proportion of statewide available beds equal to the ratio of that planning area's bed need to reach the established ratio in the projection year. The proposed health planning area for this project is Snohomish County. Application of this portion of step four to Snohomish County yields 697 additional beds could be added to bring the planning area to the established ratio in the projection year.

To demonstrate need for an additional 27 beds within the county, MCMP provided calculations that conclude Snohomish County is currently under the 40/1,000 target ratio. While comments were provided by both affected and interested persons in opposition to this project, none of the comments dispute the methodology's mathematic conclusion of need for additional beds within Snohomish County.

In conclusion, the numeric methodology is a population based assessment to determine the baseline supply of nursing home beds within the state and a county to determine whether the existing number of beds is adequate to serve the elderly population. Based solely on the numeric methodology, the department would conclude that additional nursing home beds are justified in Snohomish County in the projection year 2007.

[3] For nursing homes applications submitted in the 2004 concurrent review cycle, 2007 is the projection year.

B. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that the application is not consistent with the applicable need criteria in WAC 246-310-210.

(1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need

WAC 246-310-210 requires the department to evaluate all CN applications on the basis of the population's need for the service and determine whether other services and facilities of the type proposed are not, or will not be, sufficiently available or accessible to meet that need. Additionally, subsection (6) identifies the process to be used to evaluate this sub-criterion. Specifically, if the state is below the statewide estimated bed need, the department shall determine the need for nursing home beds, including distinct part long-term care units located in a hospital licensed under chapter 70.41 RCW, based on the availability of:

1) other nursing home beds in the planning area to be served; and
2) other services in the planning area to be served. Other services to be considered include, but are not limited to: assisted living (as defined in chapter 74.39A RCW); boarding home (as defined in chapter 18.20 RCW); enhanced adult residential care (as defined in chapter 74.39A RCW); adult residential care (as defined in chapter 74.39A RCW); adult family homes (as defined in chapter 70.128 RCW); hospice, home health and home care (as defined in chapter 70.127 RCW); personal care services (as defined in chapter 74.09 RCW); and home and community services provided under the community options program entry system waiver (as referenced in chapter 74.39A RCW). The availability of other services shall be based on data which demonstrates that the other services are capable of adequately meeting the needs of the population proposed to be served by the applicant.

Services currently provided at MC-Lynnwood include skilled nursing, rehabilitation, and a variety of therapies. [source: Application, pp4-5] While the applicant asserts throughout its application that the community-based providers are not providing the same type of care that would be provided at MC-Lynnwood the department must consider their availability and determine whether patients could be better served in those settings.

Skilled Nursing Facilities—20 SNFs representing 1,903 beds

As of the writing of this evaluation, Snohomish County has 1,903 skilled nursing facility (SNF) beds distributed among 19 community-based SNFs (C-SNF) and 1 hospital based SNF (H-SNF). Services provided at SNFs include skilled nursing services, including convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent or acutely ill persons. [source: RCW 18.51]

Eligibility for Medicare and Medicaid skilled nursing facility services is governed by the Centers for Medicare and Medicaid Services (CMS). Medicare covers skilled nursing facility services for as long as a patient is eligible and the patient's physician orders the services. Eligibility requirements for coverage by Medicare includes a hospital stay for three consecutive days prior to being admitted into the skilled nursing facility; further the skilled care must be required on a daily basis and the services must be those that, as a practical matter, can only be provided in a skilled nursing facility on an inpatient basis. [source: CMS Handbook: Medicare Coverage of Skilled Nursing Facility Care]

Of the total of 1,903 beds at the SNFs in the county, 1,766 are currently licensed, 28 are banked under the alternate use provisions of RCW 70.38.111(8)(a), and 109 are banked under the full facility closure provisions of RCW 70.38.115(13)(b).

For the 28 beds banked under alternate use, RCW 70.38.111(8)(d) states:

> *"Nursing home beds that have been voluntarily reduced under this section* [RCW 70.38.111(8)] *shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section."*

For the 109 beds banked under full facility closure, RCW 70.38.115(13)(b) states:

> *"When an entire nursing home ceases operation, the licensee or any other party who has secured an interest in the beds may reserve his or her interest in the beds for eight years or until a certificate of need to replace them is issued, whichever occurs first. However, the nursing home, licensee, or any other party who has secured an interest in the beds must give notice of its intent to retain the beds to the department of health no later than thirty days after the effective date of the facility's closure. Certificate of need review shall be required for any party who has reserved the nursing home beds except that the need criteria shall be deemed met when the applicant is the licensee who had operated the beds for at least one year, who has operated the beds for at least one year immediately preceding the reservation of the beds, and who is replacing the beds in the same planning area."* [emphasis added]

Further, WAC 246-310-010 defines bed supply as

> *"Nursing home beds which are licensed or certificate of need approved but not yet licensed or beds banked under the provisions of RCW 70.38.111 (8)(a) or where the need is deemed met under the provisions of RCW 70.38.115 (13)(b)"*

As required above, the department must count all 1,903 beds within the count of available beds in the community.

Snohomish County's total of 20 SNFs and the number of licensed and banked beds is shown in Table I on the following page. [source: Certificate of Need Bed Supply Log, October 15, 2005]

Table I
Snohomish County 2005 Bed Count by Skilled Nursing Facility

Name of Facility	# of Licensed Beds	# of Banked Beds	Total # of Beds
Aldercrest Health & Rehab Center	124	4	128
Bethany at Pacific	111	0	111
Bethany at Silverlake	120	0	120
Delta Rehab Center	137	0	137
Edmonds Rehab & Healthcare Center	89	9	98
Everett Rehab & Care Center	100	0	100
Everett Transitional Care Services	31	0	31
Forest View Transitional Health Center	70	0	70
Josephine Sunset Home	160	0	160
Lynnwood Manor Health Care Center	95	0	95
Madeleine Villa Healthcare Center	88	10	98
Manor Care Health -Lynnwood (applicant)	113	0	113
Marysville Care Center	97	0	97
Merry Haven Healthcare Center	91	0	91
Parkway Nursing Center	0	109	109
Providence Hospital (*H-SNF*)	12	0	12
Regency Care Center-Arlington	96	0	96
Regency Care Center-Monroe	92	0	92
Sunrise View Convalescent Center	59	5	64
Warm Beach Health Care Center	81	0	81
Total # of Facilities = 20	**1,766**	**137**	**1,903**

To further assist in its determination whether patients proposed to be served by MCMP would also be candidates for the existing SNFs in the county, the department compared MC-Lynnwood's average nursing hours per patient day with the existing C-SNF's averages. It is noted that the comparison does not include the H-SNF associated with Providence Hospital because that facility has elected to not participate in the Medicaid program; data for this facility is not included in the DSHS cost reports. While data for this facility would generally be obtained through the department's CHARS data, Providence Hospital does not report data on its 12-bed unit separately from the hospital data. As a result, data for the 12-bed unit at Providence Hospital is unavailable. On February 18, 2004, Parkway Nursing Center in Snohomish closed its facility and banked 109 beds under the full facility closure provisions of RCW 70.38.115(13)(b). Given that Parkway Nursing Center closed in 2004, year 2003 data includes Parkway Nursing Center, and year 2004 data does not. Finally, Lynnwood Manor Healthcare Center did not file its 2003 and 2004 cost reports with DSHS, as a result, data on that facility is unavailable.

The average nursing hours per patient day comparison is summarized in Table II on the following page. [source: Medicaid Cost Report data for years 2003 and 2004]

Table II
Average Nursing Hours Per Patient Day Comparison

	RN/PD	LPN/PD	NA/PD	Total NH/PD
Year 2003 MC-Lynnwood	0.419	0.664	2.298	3.381
Year 2003 Snohomish County Averages	0.500	0.609	2.396	3.505
Year 2004 MC-Lynnwood	0.387	0.745	2.231	3.363
Year 2004 Snohomish County Averages	0.493	0.618	2.380	3.491

Based on the summary shown in Table II, the applicant's patients are comparable to the average patient accepted by the existing C-SNFs in the county. Further, when comparing MC-Lynnwood's proposed RN, LPN, and NA hours per patient day to each individual facility in the county, MC-Lynnwood closely compares with 2004 data for the patients served at Everett Rehab & Care and Madeline Villa. Further, based on the nursing hours per patient day alone, MC-Lynnwood would typically serve a slightly higher acuity patient than both Merry Haven Health Care and Regency Care at Arlington, and a lower acuity patient than both Delta Rehab and Everett Transitional Care. [source: Medicaid Cost Report data year 2004]

In summary, the department concludes that the patients currently served by MC-Lynnwood are also appropriate candidates for services by the existing C-SNFs in the county.

Home Health Services

Home health services means services provided to ill, disabled, or vulnerable individuals. Generally a home health patient is homebound, or normally unable to leave home unassisted.[4] Home health services include skilled nursing, home health aide, medical social work, a variety of therapies, and home medical supplies or equipment services. [source: RCW 70.127.010] Home health services are typically provided to patients discharged to their homes by a long-term care facility or hospital for a lower level of care.

Eligibility for Medicare and Medicaid home health services is also governed by CMS. Medicare covers home health services for as long as a patient is eligible and the patient's physician orders the services; however, skilled nursing care and home health aide services are only covered on a part-time or "intermittent" basis. This means there are limits on the number of hours per day and days per week that a patient may receive skilled nursing or home health aid services. Those limits include skilled nursing care needed fewer than seven days each week or less than eight hours each day over a period of 21 days. Medicaid may help with medical costs for some patients, however, to qualify for Medicaid, a patient must be considered a low income patient. [source: CMS Handbook: Medicare and Home Health Care]

As of the writing of this evaluation, Snohomish County has 13 home health agencies, and of those, 4 are Medicare certified. Given that home health care is provided at the patient's residence, capacity for a home health agency is typically measured by its ability to retain or recruit additional staff to meet the needs of the agency's visits. Based on the information above, the department concludes that the home health setting may be appropriate for a number of patients described within the application.

[4] To be homebound means that leaving home takes considerable and taxing effort. [source: CMS Handbook: Medicare and Home Health Care]

Hospice Services

Hospice programs are designed to offer symptom and pain management to terminally ill patients, and emotional, spiritual, and bereavement support for the patient and family in the final stages of the patient's life. Hospice services may be provided either in the patient's home or within an assisted living or skilled nursing center. [source: RCW 70.127.010] The county also has 5 hospice agencies, and of those, 4 are Medicare certified. Based on this information, the department concludes that the hospice setting would be considered unsuitable for the majority of skilled nursing facility patients described within this application.

As of October 2005, there are 334 adult family homes operating at least 1,504 beds[5] within Snohomish County. Adult family home means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. [source: RCW 70.128.010] "Personal care" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs. Personal care services do not include assistance with tasks performed by a licensed health professional. "Special care" means care beyond personal care services as defined above. [source: WAC 388-76-540]

Additionally, as of October 2005, there are 42 boarding homes operating a total of 2,110 beds[6] within the county. A boarding home means any home or other institution that provides board and domiciliary care to seven or more residents. "Domiciliary care" is defined as **1)** assistance with activities of daily living provided by the boarding home either directly or indirectly; or **2)** health support services, if provided directly or indirectly by the boarding home; or **3)** intermittent nursing services, if provided directly or indirectly by the boarding home. [source: WAC 388-78A-020]

In previous SNF applications reviewed by CN staff, representatives from the Department of Social and Health Services (DSHS) have stated *"on the average, these types of facilities [adult family homes and boarding homes] are usually about 85% occupied."* However, neither adult family homes nor boarding homes are required to report occupancy data to any regulatory or data gathering entity, which includes its own licensing agency--DSHS. Therefore, the basis for the 85% average occupancy within these two settings has been unavailable and unclear.

To assist in its determination of whether adult family homes or boarding homes are available to meet the needs of the SNF patients in the county, the department enlisted the services of The Gilmore Research Group (GRG) located in the Pacific Northwest. GRG provides research consultation, probability sampling, and data for analysis. For this project, GRG conducted telephone interviews with managers or people in positions of authority at adult family homes and boarding homes in Snohomish County. The purpose of the interviews was to learn more about the capacity and limitations of these facilities as alternatives to nursing home services. [source: The Gilmore Research Group website and October 18, 2005, report, p1]

For Snohomish County, GRG contacted 266 of the total of 334 adult family homes (or 80% of the total adult family homes) representing 1,504 beds and 41 of the 42 boarding homes (or 98% of the total boarding homes) representing 2,110 beds. A summary of the GRG research is shown below.

[5] Of the 334 AFH, 266 were contacted by GRG; as a result, 1,504 beds is an undercount of the total number of AFH beds within the county.

[6] Of the 42 BH, one would not disclose the number of beds within the facility, as a result, 2,110 beds is an under count of the total number of BH beds within the county.

Adult Family Homes—266 homes representing 1,504 beds

Below is a breakdown of the payer sources accepted at the 266 homes contacted by GRG.

Payer Sources Accepted	# of AFHs	# of beds	% of Beds (1,504)
Both Medicare and Medicaid	186	1,048	70%
Medicare only (not included above)	12	66	4%
Medicaid only (not included above)	47	276	18%
Private Pay only	21	114	8%
Totals	**266**	**1,504**	**100%**

As shown in the chart above, of the 266 AFH contacted, 186 (or 70% of the total number of AFH) accept both Medicare and Medicaid patients which represents 1,048 or 70% of the total AFH beds. In addition to the 186 AFHs that accept both payer sources, 66 more homes would accept only Medicare patients, which increases the percentage of Medicare beds to 74% of the total. Another 47 AFH would accept only Medicaid patients, which increases the percentage of Medicaid beds to 92% of the total. As shown in the chart above, 21 AFHs, representing 114 beds, accept only private pay patients. Given that the majority of SNF patients are Medicare or Medicaid recipients, this portion of the evaluation will focus on the 245 homes that accept either Medicare or Medicaid patients.

GRG also requested the AFH representative to identify any limitations in the types of patients accepted into the facility. Examples of limitations identified by the AFH representatives include:

- non-smokers only;
- ambulatory patients only;
- no HIV/AIDS or terminally ill patients;
- no bariatric [obese] patients;
- no diabetic patients;
- no patients requiring injected medications; and
- no mental health or violent behavior patients.

Of the 245 homes accepting either Medicare or Medicaid patients, only 95 offered services with no limitations—representing a total of 518 AFH beds. Further of the 95 facilities and 518 beds—131 beds were vacant at the time of the survey, which represents 75% occupancy of the 95 facilities. Representatives of the 95 facilities stated that their current number of vacant beds is a typical representation of the facility's vacancy. In summary, a portion of SNF patients may be served in AFHs within the county, and many of the AFHs that could serve the SNF patients have vacancies.

Boarding Homes—41 homes representing 2,110 beds

Below is a breakdown of the payer sources accepted at the 41 homes contacted by GRG.

Payer Sources Accepted	# of BHs	# of beds	% of Beds (2,110)
Both Medicare and Medicaid	9	424	20%
Medicare only (not included above)	0	0	0%
Medicaid only (not included above)	12	725	34%
Private Pay only	20	961	46%
Totals	**41**	**2,110**	**100%**

As shown in the chart above, of the 41 BH contacted, 9 (or 22% of the total number of BH) accept both Medicare and Medicaid patients which represents 424 or 20% of the total BH beds. It is noted

that none of the BHs contacted would accept only Medicare patients. In addition to the 9 BHs that accept both payer sources, 12 more would accept only Medicaid patients, which increases the number of Medicaid available BH beds to 1,149 or 54% of the total. As shown in the chart above, 20 BH, representing 961 beds or 46% of the total beds, accept only private pay patients. Given that the majority of SNF patients are Medicare or Medicaid recipients, this portion of the evaluation will focus on the 21 homes that accept either Medicare or Medicaid patients.

GRG also requested the BH representative to identify any limitations in the types of patients accepted into the facility. Of the 21 BH, 19 had limitations. Examples of limitations identified by the BH representatives include:

- ambulatory patients only;
- no patients requiring skilled nursing care;
- no bariatric [obese] patients;
- no insulin dependence patients; and
- no mental health or violent behavior patients.

Of the 21 boarding homes accepting either Medicare or Medicaid patients, only 2 offered services with no limitations—representing a total of 80 BH beds. Further, of the 2 facilities and 80 beds, both facilities had no vacancies at the time of the survey, which represents 100% occupancy of the 2 facilities. Representatives of the 2 facilities stated that their current lack of vacancy is a typical representation of the facility occupancy. In summary, while a few SNF patients may be served in BHs, most SNF patients would not be candidates for the BH setting because of BH limitations and lack of vacancies.

To assist in its demonstration of need for an additional 27 beds to MC-Lynnwood, MCMP provided documentation to support its three assertions restated below. [source: Application, pp10-13; March 16, 2005, supplemental information, pp4-6]

- the demographic profile of Snohomish county identifies a 75+ population that is projected to increase 8% and an 85+ population that will increase 21% by 2008;
- utilization of existing nursing homes in the planning area is high—90% in 2003;
- Manor Care of Lynnwood currently maintains a waiting list of 19 potential residents; the facility's services are in high demand—Manor Care of Lynnwood turned away 135 admissions during the last nine months because of lack of available beds.

Based on the documents provided by the applicant to support its above assertions, MCMP concluded that access to care in Snohomish County is currently limited and additional beds are necessary to ensure proper placement of skilled nursing patients. [source: Application, p13]

Information in opposition to this project related to the need criterion was provided by the following entities. [sources noted below]

- Department of Social and Health Services, Aging and Adult Administration Division [source: December 16, 2004, public comment]
- Sunrise View Retirement and Convalescent Center [source: May 26, 2005, public hearing documents]
- Lynnwood Manor Healthcare [source: May 26, 2005, public hearing documents]
- Life Care Center of Bothell [source: May 26, 2005, public hearing documents]
- Eagle Healthcare, Inc [source: April 6, 2005, public comment]

In order to assess these comments and concerns and to examine skilled nursing care in Snohomish County more closely, the department used data submitted by the applicant, data submitted in support of the application, and data submitted in opposition to the application. Further, the department reviewed historical cost reports obtained from DSHS. This information includes annual Medicaid cost report raw data and summaries for 2003 and 2004 for all Washington State SNFs--both community and hospital-based--eligible to provide Medicaid services for Washington State residents. Given that the SNF associated with Providence Hospital in Everett is not included in the DSHS cost report data, and the hospital does not report its utilization data separately for the SNF, this evaluation does not include any data for the 12 beds associated with Providence Hospital in Everett. A summary of the department's review is shown below by topic, and excerpts of the comments provided in opposition are addressed by topic where appropriate.

Population growth in Snohomish County

MCMP asserts that population growth in Snohomish County is growing in the elderly populations of 65+ and by year 2008, the number of SNF beds in the county will not be adequate to meet the growth. The existing providers did not comment on this assertion made by the applicant.

To evaluate this assertion, the department obtained population data from the Office Financial Management (OFM) for both Washington State and Snohomish County. In January 2002, OFM released new county and state projections for the Growth Management Act. The projection series starts with the year 2000 census as a base and uses actual growth trends through the 1990s and prior historical periods to develop county growth expectations. In January 2004, OFM published a tracking report to evaluate how the annual population estimates for 2001 through 2003 line up with the 2005 Growth Management Act projections.[7] The tracking report provided the following summaries regarding population growth in Washington.

- one-third of the counties are tracking closely--within one percent--of the 'intermediate' series range;[8]
- all but two counties are tracking within the high and low projection series range (Franklin and Pend Oreille); and
- about 70% of the counties are tracking below their intermediate projection series.

The Snohomish County graph within the OFM document shows that the county is tracking almost right on the intermediate series range.

On June 28, 2005, OFM provided a press release regarding Washington State growth. Within that press release, OFM indicates that Washington State's population has grown approximately 1.4%, in the past year, which is slightly higher than the 1.1 % growth in the previous year. Further, the document identified the fastest growing counties based on the percentage of change since the 2000 census. Those counties are Benton, Clark, Franklin, and San Juan. While Snohomish County is not identified within this document as a fast growing county, it is ranked 7th in the state of the fastest growing counties. The chart below shows the pertinent population data for Snohomish County compared with Washington State. [source: OFM data]

Area	2005 Population Estimate	% change from 2000-2005	# of persons 65 & older	% of persons 65 & older
Washington	6,256,400	6.15%	712,092	11.4%
Snohomish County	655,800	8.21%	60,334	9.2%

[7] The full tracking report can be obtained at http://www.ofm.wa.gov/pop/index/htm#growth.

[8] Projections are provided by three series: low, intermediate, and high. Low series projections would project a slower growth than both the intermediate or high series. Under usual and normal circumstances, the CN Program bases its projections on the intermediate series.

As shown above, Snohomish County's overall population growth is larger and its percentage of persons 65 and older is lower when compared to the state.

The chart below compares Snohomish County's growth with the four counties identified by OFM as the fastest growing counties -- Benton, Clark, Franklin, and San Juan. That comparison is shown below.

County	2005 Population Estimate	% change from 2000-2005	# of persons 65 & older	% of persons 65 & older
Snohomish	655,800	8.21%	60,334	9.2%
Franklin	60,500	22.60%	4,538	7.5%
Clark	391,500	13.40%	39,150	10.0%
Benton	158,100	10.97%	16,601	10.5%
San Juan	15,500	10.11%	3,209	20.7%

As shown above, Snohomish County's percentage of persons 65 and older is lower than all counties, with the exception of Franklin. For total population, Snohomish County's ranks 3rd behind King (1,808,300) and Pierce (755,900), respectively, with Spokane County (436,300) ranked as 4th. Given that there are no other counties within 100,000 population of Snohomish, the department compared Snohomish County's population growth to the three counties in the state with high populations--King, Pierce, and Spokane. That comparison is shown below.

County	2005 Population Estimate	% change from 2000-2005	# of persons 65 & older	% of persons 65 & older
Snohomish	655,800	8.21%	60,334	9.2%
King	1,808,300	4.10%	188,063	10.4%
Pierce	755,900	7.86%	77,101	10.2%
Spokane	436,300	4.39%	54,538	12.5%

As shown above, Snohomish County's percentage of growth is considerably larger than all three comparison counties. Further, the percentage and numbers of persons age 65 and older is comparable for all four counties. Based on OFM data sources, the department does not concur with the applicant regarding growth in Snohomish County.

Existing nursing homes are fully occupied

MCMP asserts that the existing facilities in the county are either fully occupied or operating at a high utilization. In response, the existing providers submitted extensive comments regarding the utilization of their facilities and asserted that the occupancy in the county is not high. The providers indicate that adequate beds are available to the residents and an additional 27 SNF beds in the county is not necessary.

As previously stated, there are 1,903 beds distributed among 18 C-SNFs, one H-SNF, and one closed C-SNF in Snohomish County. Of the 1,903 beds, 1,766 are currently licensed and 28 are currently banked under alternate use. [source: Certificate of Need Bed Supply Log, October 15, 2005] RCW 70.38.111(8) allows an SNF to voluntarily reduce or "bank" a number of its licensed beds to provide alternative services or otherwise enhance the quality of life for its residents. Once approved, the beds that are banked are de-licensed by DSHS. Additionally, beds banked under this provision may be banked for four years, with an option to renew for another four years, for a maximum bed banking of eight years. To convert beds back to nursing home beds under these provisions, the SNF must:

1) maintain eligibility for the beds currently banked; and
2) provide a minimum of 90 days notice to the CN Program that it intends to re-license the beds.[9]

Below is a summary of the alternate use banked beds within the county.

Aldercrest Health & Rehab Center is currently licensed for 124 beds, with 4 beds banked under alternate use. Bed banking expiration for the 4 beds is August 2007.

Edmonds Rehab & Healthcare Center is currently licensed for 89 beds, with 9 beds banked under alternate use. Bed banking expiration for 5 of the 9 beds is March 2006, and the remaining 4 beds will expire February 2008.

Madeleine Villa Health Care is currently licensed for 88 beds, with 10 beds banked under alternate use. Bed banking expiration for the 10 beds is October 2008.

Sunrise View Convalescent Center is currently licensed for 59 beds, with 5 beds banked under alternate use. Bed banking expiration for the 5 beds is January 2006.

RCW 70.38.111(8)(d) requires the department to count beds banked under alternate use as available nursing home beds for the purpose of evaluating need for additional beds in CN applications. Given banked beds may be converted to skilled nursing use after a 90 day notice, it is reasonable to assume that they are, in fact, available. Further, these beds are counted in the numeric bed projection methodology, which projects 697 additional beds could be added to Snohomish County to bring the planning area to the established 40/1,000 ratio in projection year 2007.

Additionally, within the 1,903 bed count, 109 beds are banked under the full facility closure provisions of RCW 70.38.115(13)(b). Under CN rules, the department is required to count the beds within the bed supply because if the licensee who banked the beds submits an application to reactivate them, need for the beds is deemed met. In summary, the department must count all 1,903 beds as available within the county.

For DSHS cost reporting purposes, facility occupancy is reported on the number of licensed beds within a facility. Tables III on the following page summarizes the occupancy of licensed SNF beds in operation in years 2003 and 2004 at the total of 19 SNFs in Snohomish County. [source: Year 2003 and 2004 DSHS cost report data]

[9] Additional requirements for converting beds back to skilled nursing use are found in RCW 70.38.111(8).

Tables III
Snohomish County Year 2003 Number of Beds and Average Occupancy

	# of Lic'd Beds	Bed Occp'y %	# of Lic'd Beds Available	Plus AU/FFC Banked Beds
Aldercrest Health & Rehab Center	116	93%	8	44
Bethany at Pacific	111	92%	9	0
Bethany at Silverlake	120	97%	4	0
Delta Rehab Center	137	87%	18	0
Edmonds Rehab & Healthcare Center	93	65%	33	0
Everett Rehab & Care Center	100	95%	5	0
Everett Transitional Care Services	31	94%	2	0
Forest View Transitional Health Center	70	88%	8	0
Josephine Sunset Home	160	95%	8	0
Lynnwood Manor Health Care Center	95	Facility did not submit 2003 cost report data to DSHS		14
Madeline Villa Healthcare Center	88	80%	18	20
Manor Care Health -Lynnwood (applicant)	113	91%	10	0
Marysville Care Center	97	95%	5	0
Merry Haven Healthcare Center	91	86%	13	0
Parkway Nursing Center	0	Facility closed February 2004; FFC bed banking and did not submit 2003 cost report data to DSHS		109
Regency Care Center-Arlington	96	90%	10	0
Regency Care Center-Monroe	92	87%	12	0
Sunrise View Convalescent Center	59	92%	5	5
Warm Beach Health Care Center	81	81%	15	0
Totals/Average Occupancy	**1,762**	**89.5%**	**183**	**197**

Snohomish County Year 2004 Number of Beds and Average Occupancy

	# of Lic'd Beds	Bed Occp'y %	# of Lic'd Beds Available	Plus AU/FFC Banked Beds
Aldercrest Health & Rehab Center	124	92%	10	4
Bethany at Pacific	111	92%	9	0
Bethany at Silverlake	120	97%	4	0
Delta Rehab Center	137	86%	19	0
Edmonds Rehab & Healthcare Center	89	67%	29	9
Everett Rehab & Care Center	100	93%	7	0
Everett Transitional Care Services	31	92%	2	0
Forest View Transitional Health Center	70	93%	5	0
Josephine Sunset Home	160	95%	8	0
Lynnwood Manor Health Care Center	95	Facility did not submit 2004 cost report data to DSHS		0
Madeline Villa Healthcare Center	88	84%	14	10
Manor Care Health -Lynnwood (applicant)	113	91%	10	0
Marysville Care Center	97	96%	4	0
Merry Haven Healthcare Center	91	89%	10	0
Parkway Nursing Center	0	Facility closed February 2004; FFC bed banking		109
Regency Care Center-Arlington	96	85%	14	0
Regency Care Center-Monroe	92	84%	15	0
Sunrise View Convalescent Center	59	94%	4	5
Warm Beach Health Care Center	81	93%	6	0
Totals/Average Occupancy	**1,766**	**89.6%**	**170**	**137**

As previously noted, the 12-bed SNF located within Providence Hospital in Everett is not included in the data above. Generally an SNF located within a hospital admits patients from the hospital for services that may require SNF care post procedure. Given that the facility does not participate in the Medicaid program, the 12 beds could not be considered an option for all residents of the county.

Parkway Nursing Center's date of closure was February 2004, and the licensee requested to bank the 95 beds under full facility closure. From the lack of reporting to DSHS for year 2003, Parkway Nursing Center would have been in the process of discharge planning and coordination for its residents as required under DSHS rules in order to meet its closure deadline in February. [10]

According to data obtained from DSHS representatives, Lynnwood Manor Healthcare Center is currently operating the facility under a bankruptcy chapter 11, which allows the nursing home to continue normal business activities while reorganizing its finances so that it may pay employees and reduce obligation to creditors. It is unclear why Lynnwood Manor Healthcare Center would chose to not submit its cost report data for years 2003 and 2004.

Again, while the department considers the banked beds available, the occupancy percentages above for years 2003 and 2004 are based on 1,762 and 1,766 licensed beds in each respective year. As shown in Tables III, in year 2003, with 197 beds banked under alternate use or full facility closure, Snohomish County's average occupancy was 90%. In year 2004, with slightly more beds licensed and 137 beds banked under alternate use and full facility closure, the county occupancy remained at 90%. Both occupancy percentages are above the statewide average for years 2003 and 2004 of 83% and 86%, respectively. For both years, the occupancy of the 95 beds at Lynnwood Manor Healthcare Center is not included.

In reviewing year 2004 occupancy percentages in Tables III above, the department notes that 6 of the 17 listed facilities operated below 90%, and 2 of the 6 facilities (Edmonds Rehab and Madeleine Villa) had beds banked under alternate use in 2004. Further, these same 2 facilities continue to have beds banked in 2005.

In conclusion, in addition to the 1,766 licensed and 137 banked beds available in the county, the department determined an average of 131 AFH beds, and zero BH beds could be available to the residents of Snohomish County, for a total of 2,034 available SNF or alternatives beds available in the county. Calculating the county bed to population ratio of persons 65 and older, reveals that the county's ratio would increase from it current 31/1,000 to 33/1,000. Additionally, adding the 27 beds proposed in this project to the 1,903 available beds, for a total of 1,930 beds, brings the county's ratio to 28/1,000 in year 2007. Both ratios continue to be under the 40/1,000 ratio used for projecting total bed need for SNFs in the state and within a planning area.

Manor Care of Lynnwood currently maintains a waiting list of 19 potential residents; the facility's services are in high demand—Manor Care of Lynnwood turned away 135 admissions during the last nine months because of lack of available beds.

MCMP asserts that additional beds should be added to MC-Lynnwood because the facility is in high demand and it has had to turn away admissions because of a lack of beds. However, the department must consider all available beds within the county, rather than one facility's utilization. As shown in Tables IV, while the average occupancy of MC-Lynnwood was 91% for both years 2003 and 2004, according to department calculations, an average of 10 beds were available in MC-Lynnwood alone. In addition to the 10 beds at MC-Lynnwood, the county had another licensed 160

[10] WAC 388-97-595.

beds available in 2004, without counting the banked beds or any available AFH or BH beds within the county.

On the basis of the information provided during the review of this project and research by Certificate of Need staff, the department concludes that need for an additional 27 beds at Manor Care Health-Lynnwood in Snohomish County is not supported by the data. Further, the applicant failed to demonstrate that existing providers in Snohomish County are neither available nor accessible to the residents of the county. As a result, the department concludes that this sub-criterion is not met.

(2) *All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.*

As previously stated, the subsidiary of MCMP currently operates a variety of health care facilities in Washington State. Through these health care facilities, MCMP provides health care services to residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups. To demonstrate compliance with this sub-criterion, MCMP provided a copy of its current Admission Agreement for MC-Lynnwood. A review of the agreement indicates that patients would appropriately be admitted to MC-Lynnwood provided that the patient was a candidate for nursing care. [source: Application, Exhibit 8]

Additionally, MCMP provided a copy of the Manor Care Resident Handbook, which is provided to each resident upon admittance to the facility. The handbook states that Manor Care will not discriminate in its admissions decisions based on race, color, religion, sex, national origin, age, mental or physical handicap or communicable or contagious disease. In addition, the resident handbook discusses the patient's right to dignity, respect and personal safety as a resident of MC-Lynnwood. [source: December 10, 2004, supplemental information, Attachment 11]

To determine whether low income residents would continue to have access to MC-Lynnwood, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. Documentation provided in the application and verified by DSHS indicate that MC-Lynnwood currently carries a Medicaid contract, and would continue to carry a Medicaid contract if an addition 27 beds are added to the facility.

Based upon the information provided, the department concludes all residents of the service area currently have access to MC-Lynnwood and approval of this project would not negatively affect that access. This sub-criterion is met.

C. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed, the department determines that the application is not consistent with the applicable financial feasibility criteria in WAC 246-310-220.

(1) *The immediate and long-range capital and operating costs of the project can be met.*

As stated earlier, the estimated capital expenditure for this project is $3,165,455, of which 68% is related to constructions costs; 11% is related to equipment costs; 7% is related to corporate overhead; 6% is related to state sales tax; and the remaining 6% is related to fees. [source: March 16, 2005, supplemental information, Attachment 16]

To determine whether MC-Lynnwood would meet its immediate and long range operating costs, the department evaluated projected balance sheets for the first three years of operation as a 140 bed

facility. A summary of the balance sheets is shown in Table IV on the following page. [source: Application, Appendix 10; Appendix 11 Schedule B]

Tables IV
Manor Care Health-Lynnwood Balance Sheet for Projected Years 2007-2009

Year 2007

Assets		Liabilities	
Total Current Assets	$ 1,320,182	Total Current Liabilities	$ 550,208
Fixed Assets	$ 8,517,922	Other Liabilities (long term)	$ 12,047
Other Assets	($ 5,171,710)	Interunit Transactions	($ 3,981,507)
		Total Liabilities	**($ 3,419,252)**
		Equity	$ 8,085,645
Total Assets	**$ 4,666,394**	**Total Liabilities and Equity**	**$ 4,666,394**

Year 2008

Assets		Liabilities	
Total Current Assets	$ 1,359,092	Total Current Liabilities	$ 558,501
Fixed Assets	$ 8,575,499	Other Liabilities (long term)	$ 12,047
Other Assets	($ 5,912,891)	Interunit Transactions	($ 5,195,043)
		Total Liabilities	**($ 4,624,495)**
		Equity	$ 8,646,195
Total Assets	**$ 4,021,700**	**Total Liabilities and Equity**	**$ 4,021,700**

Year 2009

Assets		Liabilities	
Total Current Assets	$ 1,410,973	Total Current Liabilities	$ 568,486
Fixed Assets	$ 8,648,429	Other Liabilities (long term)	$ 12,047
Other Assets	($ 6,661,365)	Interunit Transactions	($ 6,535,625)
		Total Liabilities	**($ 5,955,092)**
		Equity	$ 9,353,129
Total Assets	**$ 3,398,037**	**Total Liabilities and Equity**	**$ 3,398,037**

In addition to the projected balance sheets provided above, the applicant also provided its Statement of Operations for years 2008 through 2010 as a 140 bed facility. [source: December 10, 2004 supplemental information, Schedule A; March 16, 2005 supplemental information, Schedule C] A summary of the Statement of Operations is shown in Table V on the following page.

Table V
Manor Care Health- Lynnwood Statement of Operations Summary
Projected Years 2007 through 2009

	Year One (2007)	Year Two (2008)	Year Three (2009)
# of Beds	140	140	140
# of Patient Days	43,167	44,646	46,616
% Occupancy	84.5%	87.4%	91.2%
Net Revenue*	$ 11,285,248	$ 11,669,093	$ 12,180,886
Total Expense	$ 10,834,978	$ 11,108,544	$ 11,473,951
Net Profit or (Loss)	$ 450,270	$ 560,549	$ 706,935
Net Revenue per patient day	$ 261.43	$ 261.37	$ 261.30
Total Expenses per patient day	$ 251.00	$ 248.81	$ 246.14
Net Profit or (Loss) per patient day	$ 10.43	$ 12.56	$ 15.17

*Includes deductions for bad debt and contractual allowances

As shown in Table V above, MCMP anticipates it will operate MC-Lynnwood at a profit in the first three years of operation as a 140 bed facility.

In Washington State, Medicaid nursing facility rates are set by the Nursing Home Rates Section of the Office of Rates Management part of the Aging and Disability Services Administration of the Department of Social and Health Services. Medicaid rates for long term care nursing facilities are set individually for each specific facility. Rates are based generally on a facility's costs, its occupancy level, and the individual care needs of its residents. The Medicaid payment rate system does not guarantee that all allowable costs relating to the care of Medicaid residents will be fully reimbursed. The primary goal of the system is to pay for nursing care rendered to Medicaid-eligible residents in accordance with federal and state laws, not to reimburse costs--however defined--of providers. A facility's overall Medicaid rate is comprised of rates for the following seven separate components:

- Direct care - nursing care and related care provided to residents
- Therapy care - speech, physical, occupational, and other therapy
- Support services - food and dietary services, housekeeping, and laundry
- Operations - administration, utilities, accounting, and maintenance
- Variable return - an incentive payment for relative efficiency
- Property - depreciation allowance for real property improvements, equipment and personal property used for resident care
- Financing allowance - return on the facility's net invested funds i.e., the value of its tangible fixed assets and allowable cost of land
  [source: An Overview of Medicaid Rate Setting for Nursing Facilities in Washington provided by DSHS]

For existing nursing homes, the component rates are based on examined and adjusted costs from each facility's cost report. Direct care, therapy care, support services, operations and variable return component rates for July 1, 2001, through June 30, 2004, are based on 1999 cost reports. Property and financing allowance components are rebased annually. [source: DSHS WAC 388-96-710(3)]

All component rates require, directly or indirectly, use of the number of resident days--the total of the days in residence at the facility for all eligible residents--for the applicable report period. Resident days are subject to minimum occupancy levels. Effective July 1, 2002, the minimum occupancy for direct care, therapy care, support services, and variable return component rates is 85%; for operations, financing allowance, and property component rates, the minimum occupancy rate is

90%.[11] If resident days are below the minimum, they are increased to the imputed occupancy level, which has the effect of reducing per resident day costs and the component rates based on such costs. If the actual occupancy level is higher than the minimum, the actual number of resident days is used. [source: An Overview of Medicaid Rate Setting for Nursing Facilities in Washington provided by DSHS]

Information obtained from the Office of Rates Management within DSHS indicates that MC-Lynnwood's Medicaid reimbursement rate without the additional 27 beds would be approximately $145 per patient day. Within MC-Lynnwood's pro forma Statement of Operations, the applicant anticipates the addition of 27 beds to the 113-bed facility would result in an increased rate to approximately $146.35 for years 2007-2009. However, information obtained from the Office of Rates Management indicates that the addition of 27 beds to MC-Lynnwood would reduce its Medicaid reimbursement rate to approximately $136 per patient day.[12] Staff from the Office of Rates Management provided the following explanation for the reduced rate:

> *"The estimated rate decreases mainly because the costs for four of the cost components are still based on the 1999 rebase year when the facility had 113 beds. When we [Office of Rates Management] increase the beds to 140, we basically have to take the cost for the 113 bed facility and divide by 85 to 90% occupancy of a 140 bed facility. The same cost and many more days cause the rate per patient day to decrease."*

This reduction in Medicaid reimbursement results in a substantial reduction in revenues for years 2007 through 2009 for MC-Lynnwood. The department re-calculated the applicant's Statement of Operations with the reduced Medicaid reimbursement which is shown in Table VI below.

Table VI
Manor Care Health- Lynnwood Statement of Operations Summary
Revised Statement of Operations Summary
Projected Years 2007 through 2009

	Year One (2007)	Year Two (2008)	Year Three (2009)
# of Beds	140	140	140
# of Patient Days	43,167	44,646	46,616
% Occupancy	84.5%	87.4%	91.2%
Net Revenue*	$ 11,108,826	$ 11,487,792	$ 11,992,898
Total Expense	$ 10,834,978	$ 11,108,544	$ 11,473,951
Net Profit or (Loss)	$ 273,848	$ 379,248	$ 518,947
Net Revenue per patient day	$ 257.35	$ 257.31	$ 257.27
Total Expenses per patient day	$ 251.00	$ 248.81	$ 246.14
Net Profit or (Loss) per patient day	$ 6.34	$ 8.49	$ 11.13

*Includes deductions for bad debt and contractual allowances
Note: numbers may not add due to rounding

As shown in Table VI above, with the reduced Medicaid reimbursement, MC-Lynnwood would still be operating at a profit in all three years as a 140 bed facility. This profit is based on the facility's ability to reach its projected occupancies in all three years of operation as projected. If the applicant is

[11] For essential community providers--i.e., facilities at least a forty minute drive from the next closest nursing facility--the minimum occupancy is set at 85% for all components in recognition of their location in lesser-served areas of the state. MC-Snohomish would not meet the definition of an essential community provider.
[12] The rates are approximate and are not guaranteed.

unable to meet its projected occupancy levels, then MC-Lynnwood could be operating a break even or a slight loss.

Based on the financial information above, the department concludes that the long-term capital and operating costs of this project would be met, and the financial viability of MC-Lynnwood would be acceptable with an additional 27 beds. Therefore, this sub-criterion is met.

To further analyze short-term and long-term financial feasibility of nursing home projects and to assess the financial impact of a project on overall facility operations, the department uses a financial ratio analysis. The analysis assesses the financial position of an applicant, both historically and prospectively. The financial ratios utilized are: **1)** current assets to current liabilities; **2)** current and long-term liabilities to total assets; **3)** total operating expense to total operating revenue; and **4)** debt service coverage ratio. If a project's ratios are within the expected value range, the project can be expected to be financially feasible. Table VII below summarizes the projected financial ratios for MC-Lynnwood. [source: March 16, 2005, supplemental information, p20]

Table VII
MC-Lynnwood's Projected Financial Ratios

RATIO	GUIDELINE:	*	Year 1 2008	Year 2 2009	Year 3 2010
Current Ratio	1.8-2.5	Above	2.40	2.43	2.48
Assets Financed by Liabilities	.60-.80	Below	0.12	0.14	0.17
Total Operating Expense to Total Operating Revenue	1.0	Below	0.90	0.92	0.90
Debt Service Coverage	1.5-2.0	Above	N/A	N/A	N/A

*A project is considered more feasible if the ratio is above or below the value/guideline as indicated.

The applicant provided the following statement in reference to the ratios: [source: Application, Exhibit 12]

> *"Due to the accounting of interunit transactions between the facility and the Corporate entity, the true value of some of the facilities assets and liabilities are not accurately represented,(i.e. the facility does not keep its own cash, therefore they show a minimal cash balance). This obviously affects the ratio calculations shown above."*

As shown in Table VII above, all ratios are projected to be within the accepted guidelines for nursing homes in Washington State. Specifically, the assets financed by liabilities ratio of MC-Lynnwood is favorably below the state average. As the financing for this project is a cash transaction, the debt service ratio is not applicable. Therefore, the department concludes MC-Lynnwood's financial ratios, as illustrated in Table VII, demonstrate that the project is financially feasible.

Based on the financial information above, the department concludes that the long-term capital and operating costs of this project would be met. This sub-criterion is met.

(2) *The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.*

The per patient day costs were compared to the year 2003 and 2004 costs of the 18 C-SNFs currently operating in Snohomish County. On the basis of that comparison, MC-Lynnwood's per patient day costs are comparable to facilities located in the county, therefore, MC-Lynnwood's costs do not appear to be unreasonable. [source: 2003 and 2004 DSHS cost report summaries]

In the need section of this evaluation, the department concluded that the applicant failed to demonstrate that existing providers are not available or accessible to meet the need identified within the application. Given that the project is not necessary, the department also concludes that the costs

of this project may result in an unreasonable impact on the costs and charges for health services in the community. This sub-criterion is not met.

(3) *The project can be appropriately financed.*

As stated in the project description portion of this evaluation, the estimated capital expenditure for this project is $3,164,455. A breakdown of the capital expenditure is shown below. [source: March 16, 2005, supplemental information, Attachment 16]

Item	Amount
Construction Costs	$ 2,158,275
Site Preparation	25,000
Equipment (Fixed and Moveable)	350,325
Corporate Overhead	232,150
Washington State Sales Tax	198,405
Fees	200,300
TOTAL	**$ 3,164,455**

The source of financing for the project will be from Manor Care, Inc. cash reserves. [source: Application, p8] To demonstrate compliance with this sub-criterion, MCMP provided Manor Care, Inc's most recent two-year historical financial documentation. [source: Application, Exhibit 11] Those documents confirm that Manor Care, Inc. currently has the funds to finance the project, and this project would not adversely affect the financial stability of Manor Care, Inc.

As of the writing of this evaluation, Manor Care, Inc. or one of its subsidiaries has four projects under Certificate of Need review in Washington State. Of those four projects, two propose to establish new 120 bed SNFs--one in Clark County and one in Thurston County; the remaining two projects each propose to add beds to an existing SNF--a 20 bed addition in Pierce County and, this project, a 27 bed addition in Snohomish County. Within all four applications, Manor Care, Inc. proposes to fund through its cash reserves. When combined, these four projects total to $30,553,820.

To evaluate whether Manor Care Inc. has the funds available for this project, and its other projects proposed in Washington State, the department reviewed Manor Care, Inc.'s most recent consolidate balance sheet for year 2004. [source: Manor Care, Inc. website] A summary of the balance sheet is shown below.

Year 2004

Assets		Liabilities	
Current Assets	$ 540,367,000	Current Liabilities	$ 402,254,000
Fixed Assets	$ 1,495,152,000	Other Liabilities	$ 954,285,000
Other Assets	$ 305,179,000	**Total Liabilities**	**$ 1,356,539,000**
		Equity	$ 984,159,000
Total Assets	**$ 2,340,698,000**	**Total Liabilities and Equity**	**$ 2,340,698,000**

This project's costs of $3,164,455 represent .13% of Manor Care, Inc.'s total assets, and 9.6% of its $32,915,000 in cash and cash equivalents. For all four projects currently under review in Washington State, $30,553,820 represents 1.3% of the total assets, and 93% of Manor Care, Inc.'s cash and cash equivalents.

Based on the above information, the department concludes that funding for this project is available based on the 2004 financial data. At this time, while Manor Care, Inc has several projects

undergoing construction, renovation, or modification, it appears that its Washington State projects could be funded. This sub-criterion is met.

D. Structure and Process (Quality) of Care (WAC 246-310-230)

Based on the source information reviewed, the department determines that the application is not consistent with the applicable structure and process of care criteria in WAC 246-310-230.

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

As previously stated, Manor Care, Inc. is the second largest provider of long term services in the nation, owning/operating over 300 nursing homes and assisted living facilities in 32 states through its subsidiaries. [source: Manor Care Website at www.hcr-manorcare.com]

MC-Lynnwood is currently operating as a 113-bed facility, and as such, is currently staffed to accommodate the types of patients served. If this project is approved, MCMP anticipates an overall increase of 15.2 FTEs for years 2007 – 2009. Table VIII below shows the breakdown of FTEs [source: December 10, 2004, supplemental information, p13]

Table VIII
Manor Care of Lynnwood Current and Projected FTEs

FTE	Current	Projected Increase	2009 Total
RNs	5.00	3.00	8.00
LPN	13.00	2.00	15.00
Nurses Aides & Assistants	41.00	10.20	51.20
Dietary Total	10.50	--no increase--	10.50
Administration Total	21.20	--no increase--	21.20
All Others Total[13]	16.30	--no increase--	16.30
Total FTE's	**107.00**	**15.20**	**122.20**

As shown in Table VIII above, MCMP expects to recruit approximately 15.2 additional FTEs to accommodate the additional patients as a 140 bed facility. In addition to the FTEs above, MC-Lynnwood currently contracts approximately 18 positions related to medical director, therapists, and pharmacists. With an additional 27 beds, MC-Lynnwood does not anticipate an increase its contracted positions.

MCMP states that it has had little difficulty recruiting staff for its existing facility and does not anticipate difficulty recruiting more staff for the additional 27 beds. To maintain and/or recruit staff at all of its facilities, MCMP uses the following strategies:

- affiliate with local nursing schools;
- operate a certified nursing assistant training center;
- encourage and support staff to obtain additional training and education for more advanced licensing;
- promote career ladder, scholarship, and tuition reimbursement programs;
- offer sign on and referral bonuses;
- offer flexible scheduling; and
- offer competitive wage and benefit packages.

Further, the applicant has the option to offer full time employment to current part-time employees. [source: Application, Attachment 14]

[13] All others include therapy staff, admission/marketing staff, and activity assistants.

Based on the information provided in the application, the department concludes that MCMP provided a comprehensive approach to recruit and retain staff necessary for the additional 27 beds. Additionally, as previously stated, the department compared years 2003 and 2004 average nursing hours per patient day for the currently operating Snohomish County C-SNFs, which includes MC-Lynnwood. That comparison revealed that MC-Lynnwood's projected nursing hours per patient day are comparable to the county's average (see Table II within this evaluation).

Based on the above evaluation and information provided in the application, the department concludes that qualified staff can be recruited. This sub-criterion is met.

(2) *The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.*

Manor Care, Inc. is an established provider of SNF services in Washington State and Snohomish County, as such; some ancillary and support services are already established. MC-Lynnwood would participate in the corporate national contract for pharmacy, IV therapy and radiology services. [source: Application, Attachment 17]

In response to this sub-criterion, the applicant provided copies of its existing contracts with all entities not affiliated with Manor Care, Inc. [source: December 10, 2004, supplemental information, Attachment 19] Further, MCMP states that the addition of 27 beds at the facility will not require any expansion of existing ancillary or support services, nor will it require the establishment of any new ancillary or support services. [source: Application, Attachment 17]

Based on the above information provided in the application, the department concludes that Manor Care of Lynnwood will continue to have appropriate relationships with ancillary and support services as a 140 bed SNF. This sub-criterion is met.

(3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.*

As stated in the project description portion of this evaluation, Manor Care of Meadow Park, Inc. is located in Delaware and is the operating group of Manor Care, Inc, an owner and operator of long term health care centers in the United States. As of the writing of this evaluation, Manor Care, Inc. has over 500 skilled nursing centers, assisted living facilities, outpatient rehabilitation clinics, and hospice and home health offices in 33 states.[14] The majority of the health care facilities are operated under the names of, or dba of, Manor Care, Arden Courts, Springhouse, and Heartland.

To evaluate this sub-criterion, the department requested quality of care histories from the states where HCR Manor Care, or any of its subsidiaries, owns or operates healthcare facilities--which represents a total of 571 health care facilities. Of the 33 states, 20 states provided detailed documentation related to the quality care history and 13 states did not respond.[15] The 20 states that responded represent 440 healthcare facilities--or 77% of the 571 facilities owned or operated by HCR Manor Care, or its subsidiaries. Of the 20 states that responded, nine indicated significant non-

[14] States include: Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, North Carolina, North Dakota, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

[15] States that did not respond: Arizona, Georgia, Kentucky, Maryland, Missouri, North Dakota, New Jersey, New Mexico, Oklahoma, South Carolina, South Dakota, Texas, and Virginia.

compliance issues[16] at one or more of the healthcare facilities operated by HCR Manor Care or one of its subsidiaries.[17] There are a total of 121 facilities within the nine states, and of those, 24 facilities--or 20%--indicated significant non-compliance issues that were subsequently corrected by HCR Manor Care or one of its subsidiaries. Further, the majority of the significant non-compliance citations related to isolated incidences and did not represent immediate jeopardy to patients. [source: compliance survey data provided by each state agency] According to documents provided by the out-of-state licensing agencies, HCR Manor Care resolved the significant non-compliance issues and no disciplinary actions were taken by the out-of-state surveying agencies.

Additionally, HCR Manor Care owns or operates four skilled nursing facilities, including Manor Care of Lynnwood, and Heartland owns or operates two in-home services agencies in Washington State. A review of the quality of care histories from all six healthcare facilities for years 2001 through 2004 revealed no significant non-compliance issues at any of the facilities.

Based on the above information, the department concludes that there is reasonable assurance that MCMP would continue to operate MC-Lynnwood in conformance with applicable state and federal licensing and certification requirements, and this sub-criterion is met.

(4) The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.

In addition to the ancillary and support services in the previous sub-section, MC-Lynnwood currently has a transfer agreement with ten hospitals located in Snohomish and King County. Further, MC-Lynnwood has agreements with local home health, home care, and hospice agencies within Snohomish and King counties. [source: Application, Exhibit 18]

To further demonstrate continuity with the area's health care system, the applicant provided its most recent three year historical placement of patients after discharge from the facility. That data revealed that the majority of MC-Lynnwood's patients are discharged home or home with home health services. [source: Application, p25]

However, in the need section of this evaluation, the department concluded that the applicant failed to demonstrate that existing providers within Snohomish County are not available or accessible to meet the need identified within the application. Therefore, need for an additional 27 beds in Snohomish County has not been demonstrated. As a result, the department must also conclude that approval of this project has the added potential of fragmentation of skilled nursing services within the service area. Therefore, this sub-criterion is not met.

(5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

This sub-criterion is addressed in sub-section (3) above and is considered met.

[16] For purposes of this evaluation, 'significant' non-compliance issues are defined as: 1) substandard care citations resulting in F-tags with scope and severity level "H" or above; 2) immediate jeopardy citations F-tags with scope and severity level "J" or above; and 3) surveys resulting in state or federal remedies (typically received for continued non-compliance beyond timeframes allowed in state or federal regulations).

[17] States indicating significant non-compliance issues: California, Colorado, Connecticut, Indiana, Iowa, Michigan, Nevada, Tennessee, and West Virginia

D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department determines that the application is not consistent with the applicable cost containment criteria in WAC 246-310-240.

(1) *Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.*

Before submitting this application for review, MCMP considered and dismissed three options. Those options and the reasons they were rejected are discussed below. [source: Application, pp25-27]

Option 1-Do nothing

MCMP states it dismissed this option because the county is determined to be under the 40/1,000 bed ratio for residents 65+ and the average occupancy of the existing facilities in Snohomish County is 90% and the beds would be needed by year 2008.

Option 2-Purchase or lease an existing building to convert to nursing home care.

MCMP asserts that this option was dismissed because it does not address the need for additional beds in the county.

Option 3-Construct a new nursing home

MCMP states that this option is generally regarded as more costly than expansion of an existing facility. This option was rejected in favor of adding beds to MC-Lynnwood.

The department notes that while the applicant identified the three options above, options 2 and 3 require prior Certificate of Need review and approval. For Certificate of Need applications for additional skilled nursing beds, regardless of whether it is a bed addition to an existing facility or the establishment of a new facility, an applicant must demonstrate that need exists for the additional bed capacity and existing providers are neither available nor accessible.

For this project, when applying the numeric methodology, the department and the applicant both concluded that Snohomish County was under the target 40/1,000 bed to population ratio. However, as previously stated, the numeric methodology is a population based assessment to determine the baseline supply of nursing home beds within the state and a county to determine whether the existing number of beds is adequate to serve the elderly population. .An applicant must also demonstrate that the existing providers are not available or accessible to meet the skilled nursing need of the county [WAC 246-310-210(1)]. In the need section of this evaluation, the department concluded that documents within the application do not meet this sub-criterion.

Based on the lack of demonstrated need and lack of consideration of other options or available alternative under the sub-criterion, the department must also conclude that the addition of 27 beds to MC-Lynnwood is not justified. Therefore, this sub-criterion is not met.

(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable;

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Within that evaluation, the department determined the sub-criterion was not met, therefore, this sub-criterion would also be considered not met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). Within that evaluation, the department determined the sub-criterion was not met, therefore, this sub-criterion would also be considered not met.

Based on the above evaluation, the department concludes that costs, scope, and methods of construction and energy conservation are reasonable. However, given the lack of demonstrated need for an additional 27 beds in Snohomish County, the department must conclude that approval of this project would have an unreasonable impact on the costs and charges to the public of providing health services by other persons.